

THE HONORABLE THOMAS S. ZILLY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KARA COOPER,

Plaintiff,

v.

GEICO ADVANTAGE INSURANCE
COMPANY,

Defendant.

No. 2:22-cv-00937-TSZ

**STIPULATION AND ORDER
RE: PHYSICAL EXAMINATION OF
PLAINTIFF KARA COOPER**

I. STIPULATION

COMES NOW, Plaintiff ~~Angela Santiago (“Santiago”)~~ Kara Cooper and Defendant GEICO Advantage Insurance Company (“GEICO”), and hereby agree and stipulate that Ms. Kara Cooper shall submit to a physical examination with the following manner, conditions, and scope under Federal Rules of Civil Procedure Rule 35:

Physical Examination

1. The date and time for the physical examination will be April 4, 2023, at 11:00 a.m. Pacific Time.

- 1 2. The physical examination will be performed by Dr. Brandt Bede (Orthopedic
2 Surgeon). ~~Attached to this Stipulation as “Exhibit A” is a true and correct copy of~~
3 ~~Dr. Bede’s Curriculum Vitae setting forth his qualifications and background as well~~
4 ~~as a copy of his fee schedule.~~
- 5 3. The location of the examination will be **Northwest Physical Medicine, 801 Pine**
6 **St., Suite 100, Seattle, WA 98101**
- 7 4. The manner for the physical examination will be a two-part examination consisting
8 of:
- 9 a. An interview in the medical examiner’s office, consisting of a history of
10 Ms. Cooper’s injury(s) and treatment for her injury(s);
- 11 i. Ms. Cooper shall complete any reasonably necessary intake forms
12 which are not overly burdensome.
- 13 ii. The Examiner(s) may ask the Plaintiff questions about the
14 mechanisms of injuries, current complaints, symptoms, and
15 communication necessary to conduct the Examination(s).
- 16 iii. The Examiner(s) may review the deposition transcript of the
17 Plaintiff, if available, as well as medical records for further
18 information.
- 19 b. A physical examination of Ms. Cooper;
- 20 i. The Examination will not include any diagnostic test or procedure
21 that is painful, protracted, or intrusive.
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1 ii. No person other than the Examiner(s) and his/her administrative staff
2 shall participate in any way in the examination or in the evaluation or
3 diagnosis of Ms. Cooper.

4 iii. Dr. Brandt Bede will perform an examination consistent with his area
5 of expertise (i.e., Orthopedics).

6 5. The conditions and scope of the physical examination will be a two-part
7 examination, consisting of an interview and physical examination, with a total
8 duration of no longer than three (3) hours.

9 a. Plaintiff shall have the right to have a representative person present at the
10 examination provided they shall not interfere with nor obstruct the
11 examination.

12 b. Plaintiff shall have the right to make an audio and/or video recording of the
13 examination, which shall be made in an unobtrusive manner and at the
14 expense of Plaintiff. If Plaintiff elects to make such recording, a true and
15 correct copy of the audio and/or video recording must be provided to defense
16 counsel within seven (7) days of the Examination.

17 6. The Examiner(s) shall make a written report of the examination, setting out all the
18 Examiner's findings, including results of all tests made, and all diagnoses and
19 conclusions. Counsel for Defendant shall cause a copy of the report to be delivered
20 to Counsel for Plaintiff within forty-five days (45) of the examination unless there
21 is good cause shown for any delay. However, Defendant retains the right to prevent
22 the depositions of the Examiner(s) or use of the Examiner's report, should the
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Examiner(s) be made consulting expert(s) in this matter. *Mothershead v. Adams*, 32 Wn. App. 325, 647 P.2d 525 (1982).

7. After the delivery of the Examiner(s) report, Plaintiff's Counsel shall have the right to take the discovery deposition of the Examiner(s), unless Defendant's attorneys decide not to call the Examiner(s) as a witness at trial, said determination to be made and written notice provided to Plaintiff's attorneys pursuant to the case scheduling order. The Examiner(s) shall make themselves available for deposition no later than sixty (60) days prior to trial or, if a discovery deadline is set by the Court, no later than thirty (30) days prior to that deadline, or as agreed to by the Parties.

8. If the Examiner(s) is deposed by Plaintiff's attorney, Plaintiff will not be responsible for Examiner's preparation time.

9. Fees to be charged by the Examiner(s) to the Plaintiff's attorneys for time spent at the deposition shall be reasonable, subject to a motion before the court. ~~The rate schedules for the Examiners are included herewith.~~

10. A copy of this Stipulation shall be given to the Examiner(s) before the examination.

11. Should any dispute arise during the examination regarding the terms and conditions of the examination, the Examiner(s) agrees to contact the undersigned attorneys promptly so that they can attempt to work out a solution to any perceived problem.

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DATED this 21st day of March, 2023.

WATHEN | LEID | HALL | RIDER, P.C.

s/ Rory W. Leid, III

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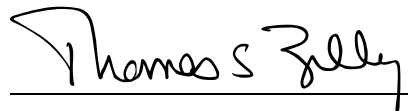
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II. ORDER

Pursuant to Plaintiff Kara Cooper and Defendant GEICO's Stipulation, and for good cause shown, the above Stipulation is accepted, adopted and made the Order of the Court.

Dated this 23rd day of March, 2023.



Thomas S. Zilly

United States District Judge